

ASSEMBLY BILL

No. 2499

Introduced by Assembly Member Bonilla

February 21, 2014

An act to amend Sections 1203.016, 1203.017, 1203.018, 2900.5, and 4019 of the Penal Code, relating to offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2499, as introduced, Bonilla. Offenders: home detention programs.

Existing law provides that the board of supervisors of any county may authorize the correctional administrator to offer a program under which inmates committed to a county jail or other county correctional facility or granted probation, or inmates participating in a work furlough program, may voluntarily participate or involuntarily be placed in a home detention program during their sentence in lieu of confinement in the county jail or other county correctional facility or program. Existing law requires the correctional administrator to provide specified information about a participant upon request of the police department of a city where an office is located to which persons on an electronic monitoring program report. Existing law requires any information received by a police department pursuant to that request to be used only for the purpose of monitoring the impact of home electronic monitoring programs in the community.

This bill would add to the information subject to those requests, current and historic GPS location data, if available. The bill would recast the provisions restricting the use of that information to prohibit a police department that does not have the primary responsibility to supervise participants in the electronic monitoring program that receives

the requested information from using the information to conduct enforcement actions based on administrative violations of the home detention program. The bill would require a police department that has knowledge that the subject in a criminal investigation is a participant in an electronic monitoring program to make reasonable efforts to notify the supervising agency prior to serving a warrant or taking any law enforcement action against a participant in an electronic monitoring program.

By imposing additional requirements on local agencies, this bill would impose a state-mandated local program.

Existing law provides that the county board of supervisors of any county may, upon determination by the correctional administrator that conditions in a jail facility warrant the necessity of releasing sentenced misdemeanor inmates prior to them serving the full amount of a given sentence due to lack of jail space, authorize the correctional administrator to offer a program under which specified inmates may be required to participate in an involuntary home detention program.

This bill would remove the requirement that the inmates subject to the involuntary home detention program be misdemeanor inmates. By expanding the availability of an inmate program administered by local agencies, this bill would impose a state-mandated local program.

Existing law provides that the county board of supervisors may authorize the correctional administrator to offer a program under which inmates being held in lieu of bail in a county jail or other county correctional facility may participate in an electronic monitoring program if certain conditions are met. Existing law requires the correctional administrator to provide specified information about a participant upon request of a local law enforcement agency with jurisdiction over the location where a participant in an electronic monitoring program is placed. Existing law requires any information received by a law enforcement agency pursuant to that request to be used only for the purpose of monitoring the impact of home electronic monitoring programs in the community.

This bill would add to the information subject to those requests, current and historic GPS location data, if available. The bill would recast the provisions restricting the use of that information to prohibit a law enforcement agency that does not have the primary responsibility to supervise participants in the electronic monitoring program that receives the requested information from using the information to conduct enforcement actions based on administrative violations of the home

detention program. The bill would require that an agency that has knowledge that the subject in a criminal investigation is a participant in an electronic monitoring program to make reasonable efforts to notify the supervising agency prior to serving a warrant or taking any law enforcement action against a participant in an electronic monitoring program.

By imposing additional requirements on local agencies, this bill would impose a state-mandated local program.

Existing law requires that when a defendant has been in custody, including, but not limited to, any time spent in a jail, camp, work furlough facility, and other specified facilities, all days of custody of the defendant, including, home detention for inmates who otherwise would be in jail in lieu of bail, are credited toward the term of imprisonment or toward any fine. Existing law also provides that the time spent in these facilities or programs qualifies as mandatory time in jail if the statute under which the defendant is sentenced requires a mandatory minimum period of time in jail.

This bill would include other home detention programs for the purpose of crediting days in custody for those purposes. The bill would remove the requirement that the statute under which the defendant is sentenced requires a mandatory minimum period of time in jail in order for the time spent in those facilities or programs to qualify as mandatory time in jail.

By increasing the administrative responsibilities of local agencies, this bill would impose a state-mandated local program.

Existing law provides that a prisoner, who, for specified reasons, is confined in or committed to a county jail, industrial farm, or road camp, or any city jail, industrial farm, or road camp, shall, for each 4 day period of custody, have one day deducted from the prisoner's period of confinement, unless it appears by the record that the prisoner has refused to satisfactorily perform labor as assigned by the sheriff, chief of police, or superintendent of an industrial farm or road camp. Existing law additionally requires for those prisoners, that for every 4 days of confinement, one day to be deducted from the prisoner's period of confinement, unless it appears by the record that the prisoner has not satisfactorily complied with the reasonable rules and regulations established by the sheriff, chief of police, or superintendent of an industrial farm or road camp.

This bill would apply those provisions to persons who are confined on or after January 1, 2015, in specified home detention programs.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1203.016 of the Penal Code is amended
2 to read:

3 1203.016. (a) Notwithstanding any other ~~provision of law~~, the
4 board of supervisors of any county may authorize the correctional
5 administrator, as defined in subdivision (h), to offer a program
6 under which inmates committed to a county jail or other county
7 correctional facility or granted probation, or inmates participating
8 in a work furlough program, may voluntarily participate or
9 involuntarily be placed in a home detention program during their
10 sentence in lieu of confinement in the county jail or other county
11 correctional facility or program under the auspices of the probation
12 officer.

13 (b) The board of supervisors, in consultation with the
14 correctional administrator, may prescribe reasonable rules and
15 regulations under which a home detention program may operate.
16 As a condition of participation in the home detention program, the
17 inmate shall give his or her consent in writing to participate in the
18 home detention program and shall in writing agree to comply or,
19 for involuntary participation, the inmate shall be informed in
20 writing that he or she shall comply, with the rules and regulations
21 of the program, including, but not limited to, the following rules:

22 (1) The participant shall remain within the interior premises of
23 his or her residence during the hours designated by the correctional
24 administrator.

25 (2) The participant shall admit any person or agent designated
26 by the correctional administrator into his or her residence at any
27 time for purposes of verifying the participant's compliance with
28 the conditions of his or her detention.

1 (3) The participant shall agree to the use of electronic
2 monitoring, which may include global positioning system devices
3 or other supervising devices for the purpose of helping to verify
4 his or her compliance with the rules and regulations of the home
5 detention program. The devices shall not be used to eavesdrop or
6 record any conversation, except a conversation between the
7 participant and the person supervising the participant which is to
8 be used solely for the purposes of voice identification.

9 (4) The participant shall agree that the correctional administrator
10 in charge of the county correctional facility from which the
11 participant was released may, without further order of the court,
12 immediately retake the person into custody to serve the balance
13 of his or her sentence if the electronic monitoring or supervising
14 devices are unable for any reason to properly perform their function
15 at the designated place of home detention, if the person fails to
16 remain within the place of home detention as stipulated in the
17 agreement, if the person willfully fails to pay fees to the provider
18 of electronic home detention services, as stipulated in the
19 agreement, subsequent to the written notification of the participant
20 that the payment has not been received and that return to custody
21 may result, or if the person for any other reason no longer meets
22 the established criteria under this section. A copy of the agreement
23 shall be delivered to the participant and a copy retained by the
24 correctional administrator.

25 (c) Whenever the peace officer supervising a participant has
26 reasonable cause to believe that the participant is not complying
27 with the rules or conditions of the program, or that the electronic
28 monitoring devices are unable to function properly in the
29 designated place of confinement, the peace officer may, under
30 general or specific authorization of the correctional administrator,
31 and without a warrant of arrest, retake the person into custody to
32 complete the remainder of the original sentence.

33 (d) Nothing in this section shall be construed to require the
34 correctional administrator to allow a person to participate in this
35 program if it appears from the record that the person has not
36 satisfactorily complied with reasonable rules and regulations while
37 in custody. A person shall be eligible for participation in a home
38 detention program only if the correctional administrator concludes
39 that the person meets the criteria for release established under this
40 section and that the person's participation is consistent with any

1 reasonable rules and regulations prescribed by the board of
2 supervisors or the administrative policy of the correctional
3 administrator.

4 (1) The rules and regulations and administrative policy of the
5 program shall be written and reviewed on an annual basis by the
6 county board of supervisors and the correctional administrator.
7 The rules and regulations shall be given to or made available to
8 any participant upon request.

9 (2) The correctional administrator, or his or her designee, shall
10 have the sole discretionary authority to permit program
11 participation as an alternative to physical custody. All persons
12 referred or recommended by the court to participate in the home
13 detention program pursuant to subdivision (e) who are denied
14 participation or all persons removed from program participation
15 shall be notified in writing of the specific reasons for the denial
16 or removal. The notice of denial or removal shall include the
17 participant's appeal rights, as established by program administrative
18 policy.

19 (e) The court may recommend or refer a person to the
20 correctional administrator for consideration for placement in the
21 home detention program. The recommendation or referral of the
22 court shall be given great weight in the determination of acceptance
23 or denial. At the time of sentencing or at any time that the court
24 deems it necessary, the court may restrict or deny the defendant's
25 participation in a home detention program.

26 (f) The correctional administrator may permit home detention
27 program participants to seek and retain employment in the
28 community, attend psychological counseling sessions or
29 educational or vocational training classes, or seek medical and
30 dental assistance. Willful failure of the program participant to
31 return to the place of home detention not later than the expiration
32 of any period of time during which he or she is authorized to be
33 away from the place of home detention pursuant to this section
34 and unauthorized departures from the place of home detention are
35 punishable as provided in Section 4532.

36 (g) The board of supervisors may prescribe a program
37 administrative fee to be paid by each home detention participant
38 that shall be determined according to his or her ability to pay.
39 Inability to pay all or a portion of the program fees shall not
40 preclude participation in the program, and eligibility shall not be

1 enhanced by reason of ability to pay. All program administration
2 and supervision fees shall be administered in compliance with
3 Section 1208.2.

4 (h) As used in this section, "Correctional administrator" means
5 the sheriff, probation officer, or director of the county department
6 of corrections.

7 (i) Notwithstanding any other law, the police department of a
8 city where an office is located to which persons on an electronic
9 monitoring program report may request the county correctional
10 administrator to provide information concerning those persons.
11 This information shall be limited to the name, address, date of
12 birth, ~~and offense committed by the home detainee. Any~~
13 ~~information received by a police department pursuant to this~~
14 ~~paragraph shall be used only for the purpose of monitoring the~~
15 ~~impact of home detention programs on the community. detainee,~~
16 *and if available, current and historical GPS coordinates of the*
17 *home detainee. A police department that does not have the primary*
18 *responsibility to supervise participants in the electronic monitoring*
19 *program that receives information pursuant to this subdivision*
20 *shall not use the information to conduct enforcement actions based*
21 *on administrative violations of the home detention program. A*
22 *police department that has knowledge that the subject in a criminal*
23 *investigation is a participant in an electronic monitoring program*
24 *shall make reasonable efforts to notify the supervising agency*
25 *prior to serving a warrant or taking any law enforcement action*
26 *against a participant in an electronic monitoring program.*

27 (j) It is the intent of the Legislature that home detention
28 programs established under this section maintain the highest public
29 confidence, credibility, and public safety. In the furtherance of
30 these standards, the following shall apply:

31 (1) The correctional administrator, with the approval of the
32 board of supervisors, may administer a home detention program
33 pursuant to written contracts with appropriate public or private
34 agencies or entities to provide specified program services. No
35 public or private agency or entity may operate a home detention
36 program in any county without a written contract with that county's
37 correctional administrator. However, this does not apply to the use
38 of electronic monitoring by the Department of Corrections and
39 Rehabilitation. No public or private agency or entity entering into

1 a contract may itself employ any person who is in the home
2 detention program.

3 (2) Program acceptance shall not circumvent the normal booking
4 process for sentenced offenders. All home detention program
5 participants shall be supervised.

6 (3) (A) All privately operated home detention programs shall
7 be under the jurisdiction of, and subject to the terms and conditions
8 of the contract entered into with, the correctional administrator.

9 (B) Each contract shall include, but not be limited to, all of the
10 following:

11 (i) A provision whereby the private agency or entity agrees to
12 operate in compliance with any available standards promulgated
13 by state correctional agencies and bodies, including the Corrections
14 Standards Authority, and all statutory provisions and mandates,
15 state and county, as appropriate and applicable to the operation of
16 home detention programs and the supervision of sentenced
17 offenders in a home detention program.

18 (ii) A provision that clearly defines areas of respective
19 responsibility and liability of the county and the private agency or
20 entity.

21 (iii) A provision that requires the private agency or entity to
22 demonstrate evidence of financial responsibility, submitted and
23 approved by the board of supervisors, in amounts and under
24 conditions sufficient to fully indemnify the county for reasonably
25 foreseeable public liability, including legal defense costs, that may
26 arise from, or be proximately caused by, acts or omissions of the
27 contractor. The contract shall provide for annual review by the
28 correctional administrator to ensure compliance with requirements
29 set by the board of supervisors and for adjustment of the financial
30 responsibility requirements if warranted by caseload changes or
31 other factors.

32 (iv) A provision that requires the private agency or entity to
33 provide evidence of financial responsibility, such as certificates
34 of insurance or copies of insurance policies, prior to commencing
35 any operations pursuant to the contract or at any time requested
36 by the board of supervisors or correctional administrator.

37 (v) A provision that permits the correctional administrator to
38 immediately terminate the contract with a private agency or entity
39 at any time that the contractor fails to demonstrate evidence of
40 financial responsibility.

1 (C) All privately operated home detention programs shall
2 comply with all appropriate, applicable ordinances and regulations
3 specified in subdivision (a) of Section 1208.

4 (D) The board of supervisors, the correctional administrator,
5 and the designee of the correctional administrator shall comply
6 with Section 1090 of the Government Code in the consideration,
7 making, and execution of contracts pursuant to this section.

8 (E) The failure of the private agency or entity to comply with
9 statutory provisions and requirements or with the standards
10 established by the contract and with the correctional administrator
11 may be sufficient cause to terminate the contract.

12 (F) Upon the discovery that a private agency or entity with
13 whom there is a contract is not in compliance pursuant to this
14 paragraph, the correctional administrator shall give 60 days' notice
15 to the director of the private agency or entity that the contract may
16 be canceled if the specified deficiencies are not corrected.

17 (G) Shorter notice may be given or the contract may be canceled
18 without notice whenever a serious threat to public safety is present
19 because the private agency or entity has failed to comply with this
20 section.

21 (k) For purposes of this section, "evidence of financial
22 responsibility" may include, but is not limited to, certified copies
23 of any of the following:

24 (1) A current liability insurance policy.

25 (2) A current errors and omissions insurance policy.

26 (3) A surety bond.

27 SEC. 2. Section 1203.017 of the Penal Code is amended to
28 read:

29 1203.017. (a) Notwithstanding any other ~~provision of~~ law,
30 upon determination by the correctional administrator that
31 conditions in a jail facility warrant the necessity of releasing
32 sentenced ~~misdemeanor~~ inmates prior to them serving the full
33 amount of a given sentence due to lack of jail space, the board of
34 supervisors of any county may authorize the correctional
35 administrator to offer a program under which inmates committed
36 to a county jail or other county correctional facility or granted
37 probation, or inmates participating in a work furlough program,
38 may be required to participate in an involuntary home detention
39 program, which shall include electronic monitoring, during their
40 sentence in lieu of confinement in the county jail or other county

1 correctional facility or program under the auspices of the probation
2 officer. Under this program, one day of participation shall be in
3 lieu of one day of incarceration. Participants in the program shall
4 receive any sentence reduction credits that they would have
5 received had they served their sentences in a county correctional
6 facility.

7 (b) The board of supervisors may prescribe reasonable rules
8 and regulations under which an involuntary home detention
9 program may operate. The inmate shall be informed in writing that
10 he or she shall comply with the rules and regulations of the
11 program, including, but not limited to, the following rules:

12 (1) The participant shall remain within the interior premises of
13 his or her residence during the hours designated by the correctional
14 administrator.

15 (2) The participant shall admit any peace officer designated by
16 the correctional administrator into his or her residence at any time
17 for purposes of verifying the participant's compliance with the
18 conditions of his or her detention.

19 (3) The use of electronic monitoring may include global
20 positioning system devices or other supervising devices for the
21 purpose of helping to verify his or her compliance with the rules
22 and regulations of the home detention program. The devices shall
23 not be used to eavesdrop or record any conversation, except a
24 conversation between the participant and the person supervising
25 the participant which is to be used solely for the purposes of voice
26 identification.

27 (4) The correctional administrator in charge of the county
28 correctional facility from which the participant was released may,
29 without further order of the court, immediately retake the person
30 into custody to serve the balance of his or her sentence if the
31 electronic monitoring or supervising devices are unable for any
32 reason to properly perform their function at the designated place
33 of home detention, if the person fails to remain within the place
34 of home detention as stipulated in the agreement, or if the person
35 for any other reason no longer meets the established criteria under
36 this section.

37 (c) Whenever the peace officer supervising a participant has
38 reasonable cause to believe that the participant is not complying
39 with the rules or conditions of the program, or that the electronic
40 monitoring devices are unable to function properly in the

1 designated place of confinement, the peace officer may, under
2 general or specific authorization of the correctional administrator,
3 and without a warrant of arrest, retake the person into custody to
4 complete the remainder of the original sentence.

5 ~~(d) Nothing in this section shall be construed to~~ *This section*
6 *does not* require the correctional administrator to allow a person
7 to participate in this program if it appears from the record that the
8 person has not satisfactorily complied with reasonable rules and
9 regulations while in custody. A person shall be eligible for
10 participation in a home detention program only if the correctional
11 administrator concludes that the person meets the criteria for release
12 established under this section and that the person's participation
13 is consistent with any reasonable rules and regulations prescribed
14 by the board of supervisors or the administrative policy of the
15 correctional administrator.

16 (1) The rules and regulations and administrative policy of the
17 program shall be written and reviewed on an annual basis by the
18 county board of supervisors and the correctional administrator.
19 The rules and regulations shall be given to or made available to
20 any participant upon request.

21 (2) The correctional administrator, or his or her designee, shall
22 have the sole discretionary authority to permit program
23 participation as an alternative to physical custody. All persons
24 referred or recommended by the court to participate in the home
25 detention program pursuant to subdivision (e) who are denied
26 participation or all persons removed from program participation
27 shall be notified in writing of the specific reasons for the denial
28 or removal. The notice of denial or removal shall include the
29 participant's appeal rights, as established by program administrative
30 policy.

31 (e) The court may recommend or refer a person to the
32 correctional administrator for consideration for placement in the
33 home detention program. The recommendation or referral of the
34 court shall be given great weight in the determination of acceptance
35 or denial. At the time of sentencing or at any time that the court
36 deems it necessary, the court may restrict or deny the defendant's
37 participation in a home detention program.

38 (f) The correctional administrator may permit home detention
39 program participants to seek and retain employment in the
40 community, attend psychological counseling sessions or

1 educational or vocational training classes, or seek medical and
2 dental assistance. Willful failure of the program participant to
3 return to the place of home detention not later than the expiration
4 of any period of time during which he or she is authorized to be
5 away from the place of home detention pursuant to this section
6 and unauthorized departures from the place of home detention are
7 punishable as provided in Section 4532.

8 (g) As used in this section, “correctional administrator” means
9 the sheriff, probation officer, or director of the county department
10 of corrections.

11 (h) (1) Notwithstanding any other law, the correctional
12 administrator shall provide the information specified in paragraph
13 (2) regarding persons on involuntary home detention to the
14 Corrections Standards Authority, and upon request, shall provide
15 that information to the law enforcement agency of a city or
16 unincorporated area where an office is located to which persons
17 on involuntary home detention report.

18 (2) The information required by paragraph (1) shall consist of
19 the following:

20 (A) The participant’s name, address, and date of birth.

21 (B) The offense committed by the participant.

22 (C) The period of time the participant will be placed on home
23 detention.

24 (D) Whether the participant successfully completed the
25 prescribed period of home detention or was returned to a county
26 correctional facility, and if the person was returned to a county
27 correctional facility, the reason for that return.

28 (E) The gender and ethnicity of the participant.

29 (3) Any information received by a police department pursuant
30 to this subdivision shall be used only for the purpose of monitoring
31 the impact of home detention programs on the community.

32 (i) It is the intent of the Legislature that home detention
33 programs established under this section maintain the highest public
34 confidence, credibility, and public safety. In the furtherance of
35 these standards, the following shall apply:

36 (1) The correctional administrator, with the approval of the
37 board of supervisors, may administer a home detention program
38 pursuant to written contracts with appropriate public or private
39 agencies or entities to provide specified program services. ~~No A~~
40 public or private agency or entity ~~may~~ *shall not* operate a home

1 detention program in ~~any~~ a county without a written contract with
2 that county's correctional administrator. However, this does not
3 apply to the use of electronic monitoring by the Department of
4 Corrections and Rehabilitation as established in Section 3004. ~~No~~
5 A public or private agency or entity entering into a contract ~~may~~
6 *shall not* itself employ any person who is in the home detention
7 program.

8 (2) Program acceptance shall not circumvent the normal booking
9 process for sentenced offenders. All home detention program
10 participants shall be supervised.

11 (3) (A) All privately operated home detention programs shall
12 be under the jurisdiction of, and subject to the terms and conditions
13 of the contract entered into with, the correctional administrator.

14 (B) Each contract shall include, but not be limited to, all of the
15 following:

16 (i) A provision whereby the private agency or entity agrees to
17 operate in compliance with any available standards promulgated
18 by state correctional agencies and bodies, including the Corrections
19 Standards Authority, and all statutory provisions and mandates,
20 state and county, as appropriate and applicable to the operation of
21 home detention programs and the supervision of sentenced
22 offenders in a home detention program.

23 (ii) A provision that clearly defines areas of respective
24 responsibility and liability of the county and the private agency or
25 entity.

26 (iii) A provision that requires the private agency or entity to
27 demonstrate evidence of financial responsibility, submitted and
28 approved by the board of supervisors, in amounts and under
29 conditions sufficient to fully indemnify the county for reasonably
30 foreseeable public liability, including legal defense costs, that may
31 arise from, or be proximately caused by, acts or omissions of the
32 contractor. The contract shall provide for annual review by the
33 correctional administrator to ensure compliance with requirements
34 set by the board of supervisors and for adjustment of the financial
35 responsibility requirements if warranted by caseload changes or
36 other factors.

37 (iv) A provision that requires the private agency or entity to
38 provide evidence of financial responsibility, such as certificates
39 of insurance or copies of insurance policies, prior to commencing

1 any operations pursuant to the contract or at any time requested
2 by the board of supervisors or correctional administrator.

3 (v) A provision that permits the correctional administrator to
4 immediately terminate the contract with a private agency or entity
5 at any time that the contractor fails to demonstrate evidence of
6 financial responsibility.

7 (C) All privately operated home detention programs shall
8 comply with all appropriate, applicable ordinances and regulations
9 specified in subdivision (a) of Section 1208.

10 (D) The board of supervisors, the correctional administrator,
11 and the designee of the correctional administrator shall comply
12 with Section 1090 of the Government Code in the consideration,
13 making, and execution of contracts pursuant to this section.

14 (E) The failure of the private agency or entity to comply with
15 statutory provisions and requirements or with the standards
16 established by the contract and with the correctional administrator
17 may be sufficient cause to terminate the contract.

18 (F) Upon the discovery that a private agency or entity with
19 whom there is a contract is not in compliance pursuant to this
20 paragraph, the correctional administrator shall give 60 days' notice
21 to the director of the private agency or entity that the contract may
22 be canceled if the specified deficiencies are not corrected.

23 (G) Shorter notice may be given or the contract may be canceled
24 without notice whenever a serious threat to public safety is present
25 because the private agency or entity has failed to comply with this
26 section.

27 (j) Inmates participating in this program shall not be charged
28 fees or costs for the program.

29 (k) For purposes of this section, "evidence of financial
30 responsibility" may include, but is not limited to, certified copies
31 of any of the following:

32 (1) A current liability insurance policy.

33 (2) A current errors and omissions insurance policy.

34 (3) A surety bond.

35 SEC. 3. Section 1203.018 of the Penal Code is amended to
36 read:

37 1203.018. (a) Notwithstanding any other law, this section shall
38 only apply to inmates being held in lieu of bail and on no other
39 basis.

1 (b) Notwithstanding any other law, the board of supervisors of
2 any county may authorize the correctional administrator, as defined
3 in paragraph (1) of subdivision (k), to offer a program under which
4 inmates being held in lieu of bail in a county jail or other county
5 correctional facility may participate in an electronic monitoring
6 program if the conditions specified in subdivision (c) are met.

7 (c) (1) In order to qualify for participation in an electronic
8 monitoring program pursuant to this section, the inmate ~~must~~ *shall*
9 be an inmate with no holds or outstanding warrants to whom one
10 of the following circumstances applies:

11 (A) The inmate has been held in custody for at least 30 calendar
12 days from the date of arraignment pending disposition of only
13 misdemeanor charges.

14 (B) The inmate has been held in custody pending disposition
15 of charges for at least 60 calendar days from the date of
16 arraignment.

17 (C) The inmate is appropriate for the program based on a
18 determination by the correctional administrator that the inmate's
19 participation would be consistent with the public safety interests
20 of the community.

21 (2) All participants shall be subject to discretionary review for
22 eligibility and compliance by the correctional administrator
23 consistent with this section.

24 (d) The board of supervisors, after consulting with the sheriff
25 and district attorney, may prescribe reasonable rules and regulations
26 under which an electronic monitoring program pursuant to this
27 section may operate. As a condition of participation in the
28 electronic monitoring program, the participant shall give his or
29 her consent in writing to participate and shall agree in writing to
30 comply with the rules and regulations of the program, including,
31 but not limited to, all of the following:

32 (1) The participant shall remain within the interior premises of
33 his or her residence during the hours designated by the correctional
34 administrator.

35 (2) The participant shall admit any person or agent designated
36 by the correctional administrator into his or her residence at any
37 time for purposes of verifying the participant's compliance with
38 the conditions of his or her detention.

39 (3) The electronic monitoring may include global positioning
40 system devices or other supervising devices for the purpose of

1 helping to verify the participant's compliance with the rules and
2 regulations of the electronic monitoring program. The electronic
3 devices shall not be used to eavesdrop or record any conversation,
4 except a conversation between the participant and the person
5 supervising the participant to be used solely for the purposes of
6 voice identification.

7 (4) The correctional administrator in charge of the county
8 correctional facility from which the participant was released may,
9 without further order of the court, immediately retake the person
10 into custody if the electronic monitoring or supervising devices
11 are unable for any reason to properly perform their function at the
12 designated place of home detention, if the person fails to remain
13 within the place of home detention as stipulated in the agreement,
14 if the person willfully fails to pay fees to the provider of electronic
15 home detention services, as stipulated in the agreement, subsequent
16 to the written notification of the participant that the payment has
17 not been received and that return to custody may result, or if the
18 person for any other reason no longer meets the established criteria
19 under this section.

20 (5) A copy of the signed consent to participate and a copy of
21 the agreement to comply with the rules and regulations shall be
22 provided to the participant and a copy shall be retained by the
23 correctional administrator.

24 (e) The rules and regulations and administrative policy of the
25 program shall be reviewed on an annual basis by the county board
26 of supervisors and the correctional administrator. The rules and
27 regulations shall be given to every participant.

28 (f) Whenever the peace officer supervising a participant has
29 reasonable cause to believe that the participant is not complying
30 with the rules or conditions of the program, or that the electronic
31 monitoring devices are unable to function properly in the
32 designated place of confinement, the peace officer may, under
33 general or specific authorization of the correctional administrator,
34 and without a warrant of arrest, retake the person into custody.

35 (g) (1) Nothing in this section shall be construed to require the
36 correctional administrator to allow a person to participate in this
37 program if it appears from the record that the person has not
38 satisfactorily complied with reasonable rules and regulations while
39 in custody. A person shall be eligible for participation in an
40 electronic monitoring program only if the correctional administrator

1 concludes that the person meets the criteria for release established
2 under this section and that the person's participation is consistent
3 with any reasonable rules and regulations prescribed by the board
4 of supervisors or the administrative policy of the correctional
5 administrator.

6 (2) The correctional administrator, or his or her designee, shall
7 have discretionary authority consistent with this section to permit
8 program participation as an alternative to physical custody. All
9 persons approved by the correctional administrator to participate
10 in the electronic monitoring program pursuant to subdivision (c)
11 who are denied participation and all persons removed from program
12 participation shall be notified in writing of the specific reasons for
13 the denial or removal. The notice of denial or removal shall include
14 the participant's appeal rights, as established by program
15 administrative policy.

16 (h) The correctional administrator may permit electronic
17 monitoring program participants to seek and retain employment
18 in the community, attend psychological counseling sessions or
19 educational or vocational training classes, or seek medical and
20 dental assistance.

21 (i) Willful failure of the program participant to return to the
22 place of home detention prior to the expiration of any period of
23 time during which he or she is authorized to be away from the
24 place of home detention pursuant to this section and unauthorized
25 departures from the place of home detention is punishable pursuant
26 to Section 4532.

27 (j) The board of supervisors may prescribe a program
28 administrative fee to be paid by each electronic monitoring
29 participant.

30 (k) For purposes of this section, the following terms have the
31 following meanings:

32 (1) "Correctional administrator" means the sheriff, probation
33 officer, or director of the county department of corrections.

34 (2) "Electronic monitoring program" includes, but is not limited
35 to, home detention programs, work furlough programs, and work
36 release programs.

37 (l) Notwithstanding any other law, upon request of a local law
38 enforcement agency with jurisdiction over the location where a
39 participant in an electronic monitoring program is placed, the

1 correctional administrator shall provide the following information
2 regarding participants in the electronic monitoring program:

3 (1) The participant's name, address, and date of birth.

4 (2) The offense or offenses alleged to have been committed by
5 the participant.

6 (3) The period of time the participant will be placed on home
7 detention.

8 (4) Whether the participant successfully completed the
9 prescribed period of home detention or was returned to a county
10 correctional facility, and if the person was returned to a county
11 correctional facility, the reason for the return.

12 (5) The gender and ethnicity of the participant.

13 ~~(m) Any information received by a law enforcement agency~~
14 ~~pursuant to subdivision (l) shall be used only for the purpose of~~
15 ~~monitoring the impact of home electronic monitoring programs in~~
16 ~~the community.~~

17 (6) *Current and historical GPS coordinates, if available.*

18 (m) *A law enforcement agency that does not have the primary*
19 *responsibility to supervise participants in the electronic monitoring*
20 *program that receives information pursuant to subdivision (l) shall*
21 *not use the information to conduct enforcement actions based on*
22 *administrative violations of the home detention program. An*
23 *agency that has knowledge that the subject in a criminal*
24 *investigation is a participant in an electronic monitoring program*
25 *shall make reasonable efforts to notify the supervising agency*
26 *prior to serving a warrant or taking any law enforcement action*
27 *against a participant in an electronic monitoring program.*

28 (n) It is the intent of the Legislature that electronic monitoring
29 programs established under this section maintain the highest public
30 confidence, credibility, and public safety. In the furtherance of
31 these standards, the following shall apply:

32 (1) The correctional administrator, with the approval of the
33 board of supervisors, may administer an electronic monitoring
34 program as provided in this section pursuant to written contracts
35 with appropriate public or private agencies or entities to provide
36 specified program services. ~~No~~ A public or private agency or entity
37 ~~may~~ *shall not* operate a home detention program pursuant to this
38 section in any county without a written contract with that county's
39 correctional administrator. ~~No~~ A public or private agency or entity
40 entering into a contract pursuant to this subdivision ~~may~~ *shall not*

1 itself employ any person who is in the electronic monitoring
2 program.

3 (2) Program participants shall undergo the normal booking
4 process for arrestees entering the jail. All electronic monitoring
5 program participants shall be supervised.

6 (3) (A) All privately operated electronic monitoring programs
7 shall be under the jurisdiction of, and subject to the terms and
8 conditions of the contract entered into with, the correctional
9 administrator.

10 (B) Each contract specified in subparagraph (A) shall include,
11 but not be limited to, all of the following:

12 (i) A provision whereby the private agency or entity agrees to
13 operate in compliance with any available standards and all state
14 and county laws applicable to the operation of electronic
15 monitoring programs and the supervision of offenders in an
16 electronic monitoring program.

17 (ii) A provision that clearly defines areas of respective
18 responsibility and liability of the county and the private agency or
19 entity.

20 (iii) A provision that requires the private agency or entity to
21 demonstrate evidence of financial responsibility, submitted to and
22 approved by the board of supervisors, in amounts and under
23 conditions sufficient to fully indemnify the county for reasonably
24 foreseeable public liability, including legal defense costs that may
25 arise from, or be proximately caused by, acts or omissions of the
26 contractor.

27 (iv) A provision that requires the private agency or entity to
28 provide evidence of financial responsibility, such as certificates
29 of insurance or copies of insurance policies, prior to commencing
30 any operations pursuant to the contract or at any time requested
31 by the board of supervisors or correctional administrator.

32 (v) A provision that requires an annual review by the
33 correctional administrator to ensure compliance with requirements
34 set by the board of supervisors and for adjustment of the financial
35 responsibility requirements if warranted by caseload changes or
36 other factors.

37 (vi) A provision that permits the correctional administrator to
38 immediately terminate the contract with a private agency or entity
39 at any time that the contractor fails to demonstrate evidence of
40 financial responsibility.

1 (C) All privately operated electronic monitoring programs shall
2 comply with all applicable ordinances and regulations specified
3 in subdivision (a) of Section 1208.

4 (D) The board of supervisors, the correctional administrator,
5 and the designee of the correctional administrator shall comply
6 with Section 1090 of the Government Code in the consideration,
7 making, and execution of contracts pursuant to this section.

8 (E) The failure of the private agency or entity to comply with
9 state or county laws or with the standards established by the
10 contract with the correctional administrator shall constitute cause
11 to terminate the contract.

12 (F) Upon the discovery that a private agency or entity with
13 which there is a contract is not in compliance with this paragraph,
14 the correctional administrator shall give 60 days' notice to the
15 director of the private agency or entity that the contract may be
16 canceled if the specified deficiencies are not corrected.

17 (G) Shorter notice may be given or the contract may be canceled
18 without notice whenever a serious threat to public safety is present
19 because the private agency or entity has failed to comply with this
20 section.

21 (H) For purposes of this section, "evidence of financial
22 responsibility" may include, but is not limited to, certified copies
23 of any of the following:

24 (i) A current liability insurance policy.

25 (ii) A current errors and omissions insurance policy.

26 (iii) A surety bond.

27 SEC. 4. Section 2900.5 of the Penal Code is amended to read:

28 2900.5. (a) In all felony and misdemeanor convictions, either
29 by plea or by verdict, when the defendant has been in custody,
30 including, but not limited to, any time spent in a jail, camp, work
31 furlough facility, halfway house, rehabilitation facility, hospital,
32 prison, juvenile detention facility, or similar residential institution,
33 all days of custody of the defendant, including days served as a
34 condition of probation in compliance with a court order, credited
35 to the period of confinement pursuant to Section 4019, and days
36 served in home detention pursuant to Section 1203.016, 1203.017,
37 or 1203.018, shall be credited upon his or her term of
38 imprisonment, or credited to any fine, including, but not limited
39 to, base fines, on a proportional basis, that may be imposed, at the
40 rate of not less than thirty dollars (\$30) per day, or more, in the

1 discretion of the court imposing the sentence. If the total number
2 of days in custody exceeds the number of days of the term of
3 imprisonment to be imposed, the entire term of imprisonment shall
4 be deemed to have been served. In any case where the court has
5 imposed both a prison or jail term of imprisonment and a fine, any
6 days to be credited to the defendant shall first be applied to the
7 term of imprisonment imposed, and thereafter the remaining days,
8 if any, shall be applied to the fine, including, but not limited to,
9 base fines, on a proportional basis.

10 (b) For the purposes of this section, credit shall be given only
11 where the custody to be credited is attributable to proceedings
12 related to the same conduct for which the defendant has been
13 convicted. Credit shall be given only once for a single period of
14 custody attributable to multiple offenses for which a consecutive
15 sentence is imposed.

16 (c) For the purposes of this section, “term of imprisonment”
17 includes any period of imprisonment imposed as a condition of
18 probation or otherwise ordered by a court in imposing or
19 suspending the imposition of any sentence, and also includes any
20 term of imprisonment, including any period of imprisonment prior
21 to release on parole and any period of imprisonment and parole,
22 prior to discharge, whether established or fixed by statute, by any
23 court, or by any duly authorized administrative agency.

24 (d) ~~It shall be~~ *is* the duty of the court imposing the sentence to
25 determine the date or dates of any admission to, and release from,
26 custody prior to sentencing and the total number of days to be
27 credited pursuant to this section. The total number of days to be
28 credited shall be contained in the abstract of judgment provided
29 for in Section 1213.

30 (e) ~~It shall be~~ *is* the duty of any agency to which a person is
31 committed to apply the credit provided for in this section for the
32 period between the date of sentencing and the date the person is
33 delivered to the agency.

34 (f) If a defendant serves time in a camp, work furlough facility,
35 halfway house, rehabilitation facility, hospital, juvenile detention
36 facility, similar residential facility, or home detention program
37 pursuant to Section 1203.016, 1203.017, or 1203.018, in lieu of
38 imprisonment in a county jail, ~~and the statute under which the~~
39 ~~defendant is sentenced requires a mandatory minimum period of~~

1 ~~time in jail~~, the time spent in these facilities or programs shall
2 qualify as mandatory time in jail.

3 (g) Notwithstanding any other provision of this code as it
4 pertains to the sentencing of convicted offenders, ~~nothing in this~~
5 ~~section is to be construed as authorizing~~ *this section does not*
6 *authorize* the sentencing of convicted offenders to any of the
7 facilities or programs mentioned herein.

8 SEC. 5. Section 4019 of the Penal Code is amended to read:

9 4019. (a) The provisions of this section shall apply in all of
10 the following cases:

11 (1) When a prisoner is confined in or committed to a county
12 jail, industrial farm, or road camp, or any city jail, industrial farm,
13 or road camp, including all days of custody from the date of arrest
14 to the date on which the serving of the sentence commences, under
15 a judgment of imprisonment, or a fine and imprisonment until the
16 fine is paid in a criminal action or proceeding.

17 (2) When a prisoner is confined in or committed to the county
18 jail, industrial farm, or road camp or any city jail, industrial farm,
19 or road camp as a condition of probation after suspension of
20 imposition of a sentence or suspension of execution of sentence,
21 in a criminal action or proceeding.

22 (3) When a prisoner is confined in or committed to the county
23 jail, industrial farm, or road camp or any city jail, industrial farm,
24 or road camp for a definite period of time for contempt pursuant
25 to a proceeding, other than a criminal action or proceeding.

26 (4) When a prisoner is confined in a county jail, industrial farm,
27 or road camp, or a city jail, industrial farm, or road camp following
28 arrest and prior to the imposition of sentence for a felony
29 conviction.

30 (5) When a prisoner is confined in a county jail, industrial farm,
31 or road camp, or a city jail, industrial farm, or road camp as part
32 of custodial sanction imposed following a violation of postrelease
33 community supervision or parole.

34 (6) When a prisoner is confined in a county jail, industrial farm,
35 or road camp, or a city jail, industrial farm, or road camp as a result
36 of a sentence imposed pursuant to subdivision (h) of Section 1170.

37 (b) Subject to the provisions of subdivision (d), for each four-day
38 period in which a prisoner is confined in or committed to a facility
39 as specified in this section, one day shall be deducted from his or
40 her period of confinement unless it appears by the record that the

1 prisoner has refused to satisfactorily perform labor as assigned by
2 the sheriff, chief of police, or superintendent of an industrial farm
3 or road camp.

4 (c) For each four-day period in which a prisoner is confined in
5 or committed to a facility as specified in this section, one day shall
6 be deducted from his or her period of confinement unless it appears
7 by the record that the prisoner has not satisfactorily complied with
8 the reasonable rules and regulations established by the sheriff,
9 chief of police, or superintendent of an industrial farm or road
10 camp.

11 ~~(d) Nothing in this section shall be construed to~~ *This section*
12 *does not* require the sheriff, chief of police, or superintendent of
13 an industrial farm or road camp to assign labor to a prisoner if it
14 appears from the record that the prisoner has refused to
15 satisfactorily perform labor as assigned or that the prisoner has
16 not satisfactorily complied with the reasonable rules and regulations
17 of the sheriff, chief of police, or superintendent of any industrial
18 farm or road camp.

19 ~~(e) No~~ *A deduction may shall not* be made under this section
20 unless the person is committed for a period of four days or longer.

21 (f) It is the intent of the Legislature that if all days are earned
22 under this section, a term of four days will be deemed to have been
23 served for every two days spent in actual custody.

24 (g) The changes in this section as enacted by the act that added
25 this subdivision shall apply to prisoners who are confined to a
26 county jail, city jail, industrial farm, or road camp for a crime
27 committed on or after the effective date of that act.

28 (h) The changes to this section enacted by the act that added
29 this subdivision shall apply prospectively and shall apply to
30 prisoners who are confined to a county jail, city jail, industrial
31 farm, or road camp for a crime committed on or after October 1,
32 2011. Any days earned by a prisoner prior to October 1, 2011,
33 shall be calculated at the rate required by the prior law.

34 (i) This section shall not apply, and no credits may be earned,
35 for periods of flash incarceration imposed pursuant to Section
36 3000.08 or 3454.

37 *(j) This section shall also apply to prisoners confined pursuant*
38 *to Section 1203.016, 1203.017, or 1203.018 on or after January*
39 *1, 2015. Any days earned prior to January 1, 2015, shall be*

1 *calculated at the rate specified by law applicable prior to January*
2 *1, 2015.*

3 SEC. 6. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.